THE HON'BLE SRI JUSTICE C.V. NAGARJUNA REDDY

WRIT PETITION No. 23418 of 2007

Dated: 06.11.2007

Between:

V. Srinivasulu Setty
& others.

… Petitioners

AND

Land Acquisition Officer and
Revenue Divisional Officer,
Near Tower Clock, Anantapur.

… Respondent

Counsel for the petitioners : Sri Karanam Ramesh

Counsel for the respondent : Assistant Government Pleader for Land Acquisition

THE HON'BLE SRI JUSTICE C.V. NAGARJUNA REDDY

WRIT PETITION No. 23418 of 2007

ORDER:-

This writ petition is filed for a writ of mandamus to declare proceedings dated 25.05.2007 issued by the respondent, as illegal, arbitrary and contrary to law and violative of Articles 14, 21 and 300 (A) of the Constitution of India.

The petitioners claim to be the owners of an extent of Ac.2-81 cents and Ac.0-1225 cents of land in Sy.Nos.452-A 1B and 452-A 1C respectively situated in Guntakal municipal limits. In the year 1990, the said lands were acquired for construction of a bus station for the Andhra Pradesh State Road Transport Corporation (for short, 'the Corporation') and an award was passed on 28.09.1990.

In the affidavit filed in support of the writ petition, the petitioners averred that they approached the respondent with a request to refer the matter under Section 18 of the Land Acquisition Act, 1894 (for short, 'the Act') for enhancement of compensation; that finally they made a representation on 23.03.2007 with a similar request and that by the impugned proceedings their request was rejected on the ground that the award dated 28.08.1990 was a consent award and that therefore no reference could be made for enhancement of compensation.

Heard Sri Karanam Ramesh, learned counsel for the petitioner.

Learned counsel for the petitioner submitted that the ground that the award in question is a consent one is not correct and that in similar circumstances this Court directed the respondent to make a reference under Section 18 of the Act.

I have considered the submissions of the learned counsel and I do not feel persuaded to accept the same.

A reading of the award clearly indicates that the same is passed under Section 11 (2) of the Act. Under the said provision, if the Collector is satisfied that all the persons interested in the land who appeared before him have agreed in writing on the matters to be included in the award of the Collector in the form prescribed by rules made by the appropriate Government, he may, without making further enquiry, make an award according to the terms of such agreement. Thus, unlike an award to be made under Section 11 (1) of the Act on the basis of the market value prevailing in the area, the Collector is empowered under Section 11 (2) of the Act to make an award on the basis of the agreement of the parties. The petitioners never questioned the validity of the award for the last 17 years. Therefore, at this length of time it is not open to them to contend that the award is not a consent award and once a consent award is made, it
pre-supposes that the parties agreed for the compensation to be fixed under the award. Hence, they cannot seek a reference for further enhancement of the market value under Section 18 of the Act.

As regards the contention of the learned counsel that in Writ Petition No.17548 of 2007, this Court directed the respondent to

refer the dispute to the civil Court. I have carefully gone through the said judgment and I find that the issue whether the award therein was a consent award or not never fell for consideration. On the other hand, the question that was raised and discussed therein was whether a reference under Section 18 of the Act can be made without there being a specific protest while receiving the compensation. The learned Single Judge relying upon the Full Bench Judgment of this Court in **District Collector, Kakinada v. P.Nagabhushana Rao**[1] held that a mere application for reference itself can be construed as protest and no formal protest need be made for seeking reference under Section 18 of the Act. Therefore, the said order has no application to the facts of this case.

One other reason for my disinclination to interfere in this matter is that though the petitioners in the affidavit stated that they approached the respondent earlier seeking reference, no material in support of this averment has been filed except the representation dated 23.03.2007 filed by them. Under Section 18 (2) of the Act, the maximum time limit of six weeks from the date of award in cases where the award was made in the presence of the parties and in other cases two months from the date of the award or service of notice from the Collector under Section 12 sub-section (2) of the Act is prescribed for making a request for reference. The petitioners in the instant case have approached the respondent almost 17 years after passing of the award. Therefore, in my opinion, they are not entitled to seek reference of the dispute to the civil court under Section 18 of the Act.

For the aforementioned reasons, the writ petition is dismissed.

As a sequel to dismissal of the writ petition, WPMP.No.30509 of 2007 filed by the petitioner for interim relief is also dismissed.

C.V. NAGARJUNA REDDY, J

Date: 06.11.2007
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[1] 2003 (6) ALD 48 (FB)